

REMARKS

The Office Action dated March 10, 2004 has been carefully reviewed. Claims 1-30 are pending. Reconsideration of the grounds of rejection is respectfully requested in view of the amendments and remarks herein.

Summary of the Office Action

References to paragraphs in the subject office action are referred to herein in parentheses identifying the appropriate paragraph, e.g. (para x).

Claims 1-30 have been rejected under 35 U.S.C. § 103(a) as unpatentable over ThoughtBridgeNetwork.com in view of U.S. Patent No. 6,285,989 ("Shoham"). (para. 1).

Claims 1-7, 9 and 13 have been rejected under 35 U.S.C. § 112 ¶ 2 for failing to point out and distinctly claim what the applicant regards is the invention. (para. 3).

Claims 16-30 have been rejected under 35 U.S.C. § 101 for failing to define a concrete, useful and tangible result. (para 4).

Response to Office Action

A. Rejection of Claims 1-30

The Examiner has cited "ThoughtBridgeNetwork.com" in combination with Shoham under 35 U.S.C. § 103(a).

Prior art disclosures on the Internet or an on-line database are considered to be publicly available as of the date the item was publicly posted. If the publication does not include a publication date (or a retrieval date), it cannot be relied upon as prior art under 35 U.S.C. § 102(a) or (b), although it may be relied upon to provide evidence regarding the state of the art. MPEP § 2128.

Prior art available under 35 U.S.C. § 102 is available under 35 U.S.C. § 103. MPEP § 2141.01.

The reference has a printed date of March 4, 2004 on each and every page which is after the priority date of the present application. Although the reference bears a date of 1977, the date on which Thought Bridge was established, the Examiner has presented no showing that this reference was

published as of 1977. The Applicants assert that absent a more official publication date, this reference does not qualify as prior art under 35 U.S.C. § 103(a).

B. Rejection of Claims 1-7, 9 and 13

The Applicants have reviewed the claim language of claims 1-7, 9 and 13 and are unable to identify any indefinite claim language. The Applicants respectfully request the Examiner to identify the claim language that fails to meet the requirements of 35 U.S.C. § 112 ¶ 2.

C. Rejection of Claims 16-30

Claims 16-30 stand rejected under 35 U.S.C. § 101 as being non-statutory subject matter. The Examiner states the claims fail to define a concrete, useful and tangible result.

The Applicants respectfully disagree with the Examiner's rejection of these claims as directed to non-statutory subject matter. Each of claims 16-30 are directed to "a machine-readable medium whose contents cause a computer system to transform bids in an electronic auction." The Applicants assert the transformation of bids to a different value in an electronic auction is a concrete, useful and tangible results. The Applicants furthermore assert that the transformation of bids to a different value in an electronic auction is analogous to the "transformation of data, representing discrete dollar amounts, by a machine through a series of mathematical calculations into a final share price" which the court has found to constitute a "useful, concrete and tangible result." State Street Bank & Trust Co v. Signature Financial Group, Inc., 149 F.3d 1368, 1373 (Fed. Cir. 1998). Therefore, the Examiner's rejection of claims 16-30, under 35 U.S.C. § 101, should be withdrawn.

CONCLUSION

In view of the foregoing remarks, it is submitted that pending claims 1-30 are in condition for allowance. Accordingly, reconsideration and allowance of claims 1-30 are requested.

Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. § 103(a), 35 U.S.C. § 112 ¶ 2 and 35 U.S.C. § 101 rejections presented in the Office Action mailed March 10, 2004.

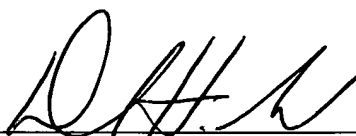
The Examiner is invited to contact the undersigned at 215-963-5055 to discuss any matter concerning this Application.

The Commissioner is hereby authorized by this paper to charge any fees due in connection with the filing of the response to Deposit Account No. **50-0310**.

Respectfully submitted,

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Date

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